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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,879	02/16/2007	Thomas Chapman	784-115 (188273)	8434
30448	7590	01/29/2010		
AKERMAN SENTERFITT P.O. BOX 3188 WEST PALM BEACH, FL 33402-3188			EXAMINER FINEMAN, LEE A	
			ART UNIT 2872	PAPER NUMBER
			NOTIFICATION DATE 01/29/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip@akerman.com

Office Action Summary	Application No. 10/595,879	Applicant(s) CHAPMAN, THOMAS	
	Examiner LEE FINEMAN	Art Unit 2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 and 24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-21 is/are allowed.
- 6) ☒ Claim(s) 22 and 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 5/17/06 & 4/29/09 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is in response to an amendment filed 25 November 2009 in which claims 1 and 5 were amended and claim 24 was added. Claims 1-22 and 24 are pending.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, “wherein the viewing device can be readily rotated about the sighting device to direct the incoming light to either side of the weapon” (claims 8 and 24) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. NOTE: The examiner previously required the applicant to change “figure 7” to “figure 6” on page 7, line 19 of the specification because there was no figure 7 in the application. However upon further review, it is noted that the scope is in the same position in fig. 6 as the rest of the drawing and is not appropriate for what is stated in the specification (i.e., “Furthermore, the viewing device 10 can be readily rotated about the longitudinal axis of the incoming light beam 44 so that the user 90 may quickly adapt the viewing device 10 for use whilst they are positioned on the opposite side of the weapon to that shown in FIG. 7.” The examiner regrets any inconvenience caused by this action.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure

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must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 22 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Avizonis, Jr. US 6,643,969 B1 (henceforth Avizonis).

Regarding claim 22, Avizonis discloses a method of viewing around an obstacle (column 4, lines 31-35) including: (a) providing a viewing device (1) that includes a main body (3 and 5), a first reflective surface (9), a second reflective surface (7), a means (23) adapted for removably securing said body to a sighting device (LS), wherein the first and second reflected surfaces are contained within the body (fig. 5), the first reflective surface (9) adapted to direct an incoming light beam from a first aperture (A₁) to the second reflective surface (7), wherein the first and

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second reflective surfaces are not positioned parallel to one another (fig. 5), and the second reflective surface adapted to direct the reflected light beam at an angle of between 35 degrees and 60 degrees (column 4, lines 35-40) relative to the incoming light beam; (b) mounting said viewing device onto a rear most section of the sighting device (figs. 7 and 8); (c) then viewing the reflected light beam through a rear of the body such that a head of a user looking through the viewing device is not substantially inline with the incoming light beam (column 4, lines 31-35).

Regarding claim 24, Avizonis discloses in figs. 5 and 6 a viewing device (1) that includes a main body (3 and 5), a first reflective surface (9), a second reflective surface (7), a means (23) adapted for removably securing said body to a sighting device (LS), wherein the first and second reflected surfaces are contained within the body (fig. 5), the first reflective surface (9) adapted to direct an incoming light beam from a first aperture (A_1) to the second reflective surface (7), wherein the first and second reflective surfaces are not positioned parallel to one another (fig. 5), and the second reflective surface adapted to direct the reflected light beam at an angle of between 35 degrees and 60 degrees (column 4, lines 35-40) relative to the incoming light beam through a second aperture (A_3) for viewing by a user (column 4, lines 31-35), wherein the viewing device is removably connected to a mounting member (27) by a pivot means (23) such that the viewing device can be mounted on a weapon and rotated about a sighting device of the weapon, to direct the incoming light beam to either side of the weapon (see column 4, line 41-column 5, line 11).

Allowable Subject Matter

4. Claims 1-21 are allowed.

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5. The following is an examiner's statement of reasons for allowance:

Claims 12-16 are allowable over the prior art for at least the reason that the prior art fails to teach and/or suggest "that the incoming light beam and the reflected light beam do not cross over one another" as set forth in the claimed combination.

Avizonis discloses a viewing device as set forth above but does not have wherein the incoming light beam and the reflected light beam do not cross over one another as claimed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

6. Applicant's arguments filed 25 November 2009 with respect to claims 22 and 24 have been fully considered but they are not persuasive.

Regarding claim 22, applicant argues that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., that the incoming light beam and the reflected light beam do not cross over one another) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Regarding claim 24, applicant only incorporated a small part of the indicated allowable subject matter. In doing so, applicant has change the meaning of the claimed limitations (i.e., the

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pivot means is not in addition to a friction fit and is now what causes the rotation about the sighting device) and therefore a rejection is appropriate.

7. It is noted by the Examiner that the claim objection made in the previous Office Action have been withdrawn due to amendment by the Applicant.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Karcher et al., US 2005/0241210 A1 discloses a viewing device for a rifle scope.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE FINEMAN whose telephone number is (571)272-2313. The examiner can normally be reached on Monday - Friday 8:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephone B. Allen can be reached on (571) 272-2434. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lee Fineman/
Primary Examiner, Art Unit 2872
22 January 2010